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**Patent and Trademark Office**

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JEAN

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EXAMINER

STRIMBU, G

ART UNIT

PAPER NUMBER

3634

DATE MAILED:

10/24/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/518,983**

Applicant(s)  
**R. Jean**

Examiner  
**Gregory J. Strimbu**

Group Art Unit  
**3634**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) 13-17 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Mar 3, 2000 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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***Restriction Requirement***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, drawn to a shutter, classified in class 049, subclass 074.1.
- II. Claims 13-17, drawn to a method of assembling a shutter, classified in class 049, subclass 506.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed can be used to make another materially different product such as a shutter that does not have a baseboard.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Rudolf O. Siegesmund on October 19, 2000 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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### ***Drawings***

The drawings are objected to because “(VIEW 7-7)” in figure 7 is superfluous and should be deleted. Finally, the applicant is reminded that when showing the invention in cross section (figure 7), the proper cross sectional shading indicating the material from which the invention is made must be used. See MPEP 608.02. Correction is required.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

### ***Specification***

The title of the invention is objected to because it is not clear what words the “/” represents.

### ***Claim Objections***

Claim 5 is objected to because it does not set forth the claim from which it depends. However, in order to further the prosecution of the application, it is assumed that claim 5 depends from claim 1. Claims 5-7, 10 and 11 are objected to because the preamble of each claim does not properly refer to the entire invention. Therefore, it is suggested that the applicant amend claims 5-7, 10 and 11 so that they refer to the invention as a whole. For example, claim 5 should be

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changed to --The shutter of claim 1 wherein each of said slats comprises a first ridge and a second ridge.-- Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a plurality of securement devices" on line 8 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the securement devices set forth above or is attempting to set forth securement devices in addition to the ones set forth above. Recitations such as "a first ridge and a second ridge" on line 1 of claim 5 render the claims indefinite because it is unclear how all of the slats can comprise only two ridges. Recitations such as "said plurality of top ends" on line 11 of claim 9 and "said plurality of screws" on line 12 of claim 9 render the claims indefinite because they lack antecedent basis. Note that the applicant has set forth only one top end above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8, 9, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexanian et al. Alexanian et al., in figures 1-3, disclose a shutter 10 comprising a top 12, a plurality of slats 20 having a top end and a bottom end, a base slat support 14, a baseboard 16, a plurality of springs 46, a plurality of securement devices 44, a stiffener 18, a plurality of joints (not numbered, but shown between the elements such as the top 12 and the base board 16), wherein the plurality of top ends are affixed to the top 12 by a plurality of securement devices 44 and wherein the plurality of springs 46 are affixed between the plurality of bottom ends and the base slat support 14 by a plurality of securement devices 44.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleaver et al. Cleaver et al. disclose a shutter for a semi-circular window comprising a top 12 a plurality of slats 18 having a top end and a bottom end, a base slat support 14, a baseboard 13, a plurality of springs 26, a plurality of securement devices 21, a base front 16, a base rear (not

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numbered, but see column 2, lines 25-26), a stiffener 20, a first ridge and a second ridge (not numbered, but comprising the edges of the slats), screws (not shown, but see column 2, lines 37-39) and a plurality of joints 22, wherein the plurality of top ends are affixed to the top 12 by a plurality of securement devices 21 and wherein the bottom ends are affixed to the base slat support 14 by a plurality of securement devices 22. Cleaver et al. are silent concerning mounting springs between the plurality of bottom ends and the base slat support.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the springs between the plurality of bottom ends and the base slat support, since it has been held that a mere reversal of the essential working parts of a device involves no more than routine skill in the art. *In re Einstein*, 8 USPQ 167.

Claims 6 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cleaver et al. as applied to claims 1-5, 7 and 8 above, and further in view of Alexanian et al. Alexanian et al. disclose, in figure 2, the use of screws 42 to connect slats to a frame 14.

It would have been obvious to one of ordinary skill in the art to provide Cleaver et al. with screws, as taught by Alexanian et al., to more securely attach the slats to a frame.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arnold, Xue, Briggs, Thomas, Rosenblatt, Faircloth, Digianni et al. and Rosen are

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cited for disclosing a semi-circular shutter. Green and Whitaker are cited for disclosing slats for a shutter including ridges. Sitzes et al. and Lukaszonas are cited for disclosing fasteners.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is (703) 305-3979. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 4:30 P.M. The fax phone number for this Group is (703) 305-3597. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



Gregory J. Strimbu  
Patent Examiner  
Art Unit 3634